

INITIAL STATEMENT OF REASONS

Administrative Civil Penalty Determinations - 2002 [May 24, 2002]

Title 14 of the California Code of Regulations (14 CCR):

Amend:

§ 1058.5 - Determination

14 CCR § 1058.5 Determination

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The Board of Forestry and Fire Protection (Board) may adopt, reject, or modify the proposed decision of the Administrative Law Judge (ALJ) when one is used to determine the administrative civil penalty assessed against individuals who violate the Z'Berg-Nejedly Forest Practice Act (Division 4, Chapter 8 of the Public Resources Code). This process is enabled under Public Resources Code (PRC) §4601.2. To evaluate the proposed decision, the Board may need to review the transcripts of the proceedings of an ALJ hearing. Current language in 14CCR §1058.5 does not allow sufficient time for the Board to request, secure and review the transcripts of the proceedings of an ALJ hearing to adopt, reject or modify the proposed decision.

SPECIFIC PURPOSE OF THE REGULATION

The regulations contained in 14CCR §1058.5 are to be modified to allow an additional 60 day period of time for review of the transcripts, when requested, of the proceedings of an ALJ hearing after the Board receives the proposed decision.

NECESSITY

The current 14CCR rules only allow 45 days from the time the Board first considered the proposed decision of the ALJ to make a written determination. If transcripts of the proceedings of an ALJ hearing are requested, it is unlikely they would be received in time for the Board to review them and make a decision at the next scheduled Board Meeting. This is particularly an issue since the Board has no December meeting and more than 60 days may elapse between Board Meetings.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board did consult the following publications as referenced in this *Statement of Reasons*:

1. Public Resources Code
2. Barclays Official California Code of Regulations

ALTERNATIVES TO THE REGULATION CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to, or considered by the Board at this time.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Board staff estimated that this regulation should not have any adverse economic impact on any business as this change only increases the review period before an administrative civil penalty is due.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has not identified any adverse environmental effects from the proposed action.

Pursuant to Government Code § 11346.2(b)(6): In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

PROPOSED TEXT

The proposed revisions or additions to the existing rule language is represented in the following manner:

UNDERLINE indicates an addition to the California Code of Regulations, and

~~STRIKETHROUGH~~ indicates a deletion from the California Code of Regulations.

All other text is existing rule language.

Jlm. 4/22/02

File: Civil Appeal 2002 ISOR

Drs 4/23/02